

GOVERNMENT OF ANDHRA PRADESH

A B S T R A C T

Public Services – Horticulture – Sri B.Prakash Patil, Horticulture Officer – Placed under suspension – Convicted – Dismissed from service – Hon'ble High Court set aside the conviction - Reinstated - Treating the period of suspension and the dismissal period as "ON DUTY" as per FR-54A(3) – Orders – Issued.

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AGRICULTURE & COOPERATION (VIG.II) DEPARTMENT

G.O.Rt.No. 201

Dated: 04/03/2014

Read the following:-

1. From the D.G., ACB, AP, Hyd. Rc. NO. 166/RCT-NZB/98-S4, dt. 9.12.1998.
2. Procdgs. of the Director of Hort. No.Estt.II(1)789/98, dt14.12.1998.
3. G.O.Ms.No.305, A&C(Horti) Dept., dated: 21.10.1999.
4. G.O.Rt.No.828, A&C (Vig.II(2) Dept., dated: 26.09.2003.
5. Order dt: 04-12-2003 in CC.No.22/1999 of Prl.Spl.Judge for SPE & ACB Cases, Hyderabad.
6. Procdgs.No.Estt.IV-III/2003, dated: 12.01.2004 of COH,Hyd.
7. Order dt: 14.03.2011 in Criminal Appeal No.1352/2003 of the High Court of A.P., Hyd.
8. Govt. MemoNo. 4830/Vig.II(2)/2005-7, dated: 23.06.2011.
9. Order dt: 29.08.2011 in SLP(Criminal) CRLMPNo.16043/2011 of the Supreme Court of India received through DG, ACB Lr. No.166/RCT-NZB/1998,dt:14.02.2012.
10. G.O.Ms.No.54, A&C(Vig.II) Dept., dated: 29.03.2012.
11. From the COH, Hyd. Lr.No.Estt.I(3)111/2003,dated: 21.12.2012.
12. From the COH, Hyd. Lr.No. Estt.I(3)111/2003, dt.20.7.2013.
13. From the COH, Hyd. Lr.No. Estt.I(3)111/2003, dt.24.9.2013.

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O R D E R:-

It was brought to the notice of the Government by the appropriate authority in the reference 1<sup>st</sup> read above, that Sri B.Prakash Patil,Horticulture Officer, while working at Siddipet, Medak District had indulged in corruption. As he was involved in a case of moral turpitude, the Director of Horticulture, Hyderabad placed the above Accused Officer ( AO) under suspension vide reference 2<sup>nd</sup> read above. The Government accorded sanction to the Director General, Anti-Corruption Bureau,Hyderabad to prosecute the A.O. in the Court of Law vide G.O.3<sup>rd</sup> read above. Subsequently, Sri B.Prakash Patil, Horticulture Officer was reinstated into service vide G.O. 4<sup>th</sup> read above after reviewing his suspension in terms of G.OMs.No. 86, GA (Ser.C) Dept. dt.8.3.1994.

2. In the reference 5<sup>th</sup> read above, the Hon'ble Prl.Spl.Judge for SPE & ACB Cases, Hyderabad pronounced judgement on 04-12-2003 in C.C.No.22/1999 convicting the Accused Officer Sri B.Prakash Patil, Horticulture Officer and sentenced him to undergo rigorous imprisonment for a period of two years and to pay a fine of 2,000/- and in default of payment of fine, to undergo simple imprisonment for a period of three months, for the offence u/s 7 of P.C.Act, 1988 and further sentenced him to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.2,000/- and in default of payment of fine to undergo simple imprisonment for a period of three months for the offence u/s 13 (1) (d) r/w sec. 13(2) of P.C.Act, 1988. Accordingly, the Commissioner of Horticulture (COH), Hyderabad issued orders dismissing Sri B.Prakash Patil, Horticulture Officer vide reference 6<sup>th</sup> read above.

3. He challenged the dismissalal orders by filing OA No. 1403 of 2004 in the APAT.

(PTO.)

4. Sri B.Prakash Patil, Horticulture Officer (Dismissed) also filed Criminal Appeal No.1352/2003 before the Hon'ble High Court of A.P. against the judgement of the Hon'ble Pri.Spl.Judge for SPE & ACB Cases, Hyderabad in C.C.No.22/1999. The Hon'ble High Court in their order dated dt: 14.03.2011 in Criminal Appeal No.1352/2003 set aside the conviction and sentences passed by the Lower Court against him and acquitted him vide reference 7<sup>th</sup> read above.

5. The Government accorded permission to the DG, ACB, Hyd. to file Spl. Leave Petition in the Supreme Court of India against the Judgement dt: 14.03.2011 of the Hon'ble High Court of A.P.in Criminal Appeal No.1352/2003 vide reference 8<sup>th</sup> read above. Accordingly, the Special Leave Petition was filed against the judgement of acquittal of the High Court of A.P. in Criminal Appeal No.1352/2003 vide CRLMP No.16043/2011.

6. Meanwhile, in the OA No. 1403/2004, the APAT passed orders on 19.9.2007 setting aside the orders of the Commissioner of Horticulture dated 12.01.2004, i.e. his dismissal orders. Based on this, he requested for his reinstatement into service. The Commissioner of Horticulture, Hyd., filed WP No. 11566 of 2009 against this APAT order. The A.P. High Court in their interim orders dated 15.6.2009 in WP. MP. No. 14895 of 2009 in WP No. 11566 of 2009 issued orders suspending the APAT orders dated 19.9.2007 in OA No. 1403/2004.

7. Meanwhile, in the reference 9<sup>th</sup> read above, the Director General ,ACB informed that the Hon'ble Supreme Court of India in their order dt: 29.08.2011 in SLP (Criminal) CRLMP No.16043/2011 dismissed the Special Leave Petition, stating that there were no valid and legal grounds for interference in the A.P. High Court orders. Based on this, Sri B.Prakash Patil, Horticulture Officer (Dismissed) filed another O.A.No.10170/2011 before the A.P.A.T.,Hyderabad for his reinstatement. The Hon'ble APAT in their interim orders dt: 29.12.2011 ordered that " pending further orders, the applicant is at liberty to make a representation to the respondents 1 to 3 ( i.e the Principal Secretary Agril. & Cooperation Dept., Government of A.P. and COH) within a week and the 1<sup>st</sup> respondent is directed to pass appropriate orders keeping in view of the orders passed by Hon'ble High Court in Criminal Appeal No.1352/2003,dt: 14-03-2011 within a period of two weeks thereafter." Accordingly, the individual submitted his representation dt: 31.12.2011 before the Government for his reinstatement.

8. In view of the dismissal of SLP by the Hon'ble Supreme Court of India, the Government reinstated Sri B.Prakash Patil, Horticulture Officer into service duly setting aside the dismissal orders vide reference 10<sup>th</sup> read above.

9. The Commissioner of Horticulture, in the reference 11<sup>th</sup> read above, informed the Govt. about the closure of CA 291/2002 in OA No. 10170/2011 on 15.6.2012 and also requested the Govt., to clarify whether the WP 11566/2009 filed by the Commissioner of Horticulture can be withdrawn because of his reinstatement after setting aside his dismissal as per the reference 10<sup>th</sup> cited.

10. In the reference 12<sup>th</sup> read above, the Commissioner of Horticulture, Hyderabad has submitted a proposal to the Government on the representation of Sri B.Prakash Patil, Horticulture Officer, to treat the entire period of suspension in respect of Sri B.Prakash Patil, Horticulture Officer from 14.12.1998 to 22.10.2003 and the dismissal period from 12.01.2004 to 02.04.2012 as "ON DUTY" with all consequential benefits.

11. In the reference 13<sup>th</sup> read above, the Commissioner of Horticulture Hyderabad, informed that the Hon'ble High Court has dismissed W.P. 11566/2009, on 20.08.2013 stating that "conviction was set aside by this Court by allowing Criminal Appeal No. 1352 of 2003 filed by the respondent and the same was confirmed by the Hon'ble Supreme Court in Special Leave Appeal (Crl) in CRLMP. No.16043 of 2011 filed by the State. In view of the same, we do not find any ground to interfere with the impugned order passed by the Tribunal."

12. In this reference, the Commissioner of Horticulture Hyderabad, requested the Govt., to treat the suspension period from 23.12.1998 to 21.10.2003 and dismissal period from 12.1.2004 to 01.4.2012 as "ON DUTY" with all the consequential benefits as per the Fundamental Rules (FR).

13. The relevant F.R is as follows:

FR-54-A

54-A.(1) Where the dismissal, removal or compulsory retirement of a Government servant is set aside by a Court of law and such Government servant is reinstated without holding any further inquiry, the period of absence from duty shall be regularised and the Government servant shall be paid pay and allowances in accordance with the provisions of sub-rule (2) or (3) subject to the directions, if any, of the Court.

54-A 2 (i): .....

54-A 2(ii) .....

54-A (3) If the dismissal, removal or compulsory retirement of a Government servant is set aside by the Court on the merits of the case, the period intervening between the date of dismissal, removal or compulsory retirement including the period of suspension preceding such dismissal, removal or compulsory retirement, as the case may be, and the date of reinstatement shall be treated as duty for all purposes and he shall be paid the full pay and allowances for the period, to which he would have been entitled, had he not been dismissed, removed or compulsorily retired or suspended prior to such dismissal, removal or compulsory retirement, as the case may be.

14. Therefore, the Government, after careful examination of the entire matter hereby permit the Commissioner of Horticulture, Hyderabad to treat the period of suspension in respect of Sri B.Prakash Patil, Horticulture Officer from 23.12.1998 to 21.10.2003 and the period of dismissal from 19.01.2004 ( i.e., the date of the serving of the dismissal order ) to 01.04.2012 as "ON DUTY" as per FR-54-A(3) and he shall be paid full pay and allowances for this period under F.R-54-A(4&5).

15. The Commissioner of Horticulture, Hyderabad shall take necessary action in the matter accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

RANJEEV R.ACHARYA

APC & PRINCIPAL SECRETARY TO GOVERNMENT

To

Sri B.Prakash Patil, Horticulture Officer through Commissioner of Horticulture, Hyderabad.

The Commissioner of Horticulture, Hyderabad.

Copy to the APVC.

Sf/Sc.

// FORWARDED:: BY ORDER //

SECTION OFFICER